



VIA ECF

Hon. Valerie E. Caproni
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: United States v. Percoco, et al.
Case No. 16-cr-00776-VEC)**

Dear Judge Caproni:

We represent Mr. Aiello in the above matter and submit this letter jointly with Mr. Gerardi (collectively the “Syracuse Defendants”) in response to the Court’s September 20, 2017 Order (Dkt. No. 320) requesting our position on withdrawing or supplementing our pending motions in light of the Second Superseding Indictment (“S2 Indictment”).

The Syracuse Defendants are not withdrawing any motions since the S2 Indictment only further enhances the need for the relief sought therein. We also do not need to supplement our motions but wish to note that the S2 Indictment is the Government’s fourth theory of a case that was initiated after a lengthy investigation. The evolution of the Government’s theories demonstrates why the Court should compel the Government to *identify, particularize and commit* to the conduct it seeks to prosecute (i.e. what is the economic harm; what are the official acts, what are the false statements, etc). Without such particularity, the Government is free to transform its theories during trial to our surprise and detriment.

Thank you for your attention to this matter.

We look forward to trial.

Very truly yours,

O’CONNELL AND ARONOWITZ

By: /s/ Scott W. Iseman

Scott W. Iseman

EDWARD J. O’CONNELL
1925-1939
SAMUEL E. ARONOWITZ
1925-1973
LEWIS A. ARONOWITZ
1951-1979

CORNELIUS D. MURRAY
FRED B. WANDER
STEPHEN R. COFFEY
JEFFREY J. SHERRIN
THOMAS J. DI NOVO
PAMELA A. NICHOLS
JEFFREY A. SIEGEL
JAMI DURANTE
ROGOWSKI
DAVID R. ROSS
KURT E. BRATTEN
MICHAEL P. McDERMOTT
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September 27, 2017

cc: All counsel of record (via ECF)